

SURREBUTTAL TESTIMONY OF**ROBERT A. LAWYER****ON BEHALF OF****THE SOUTH CAROLINA OFFICE OF REGULATORY STAFF****DOCKET NOS. 2021-143-E and 2021-144-E**

1 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND OCCUPATION.**

2 A. My name is Robert A. Lawyer. My business address is 1401 Main Street, Suite 900,
3 Columbia, South Carolina 29201. I am employed by the State of South Carolina as Deputy
4 Director of Energy Efficiency and Renewables in the Utility Rates and Services Division
5 of the Office of Regulatory Staff (“ORS”).

6 **Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.**

7 A. I received my Bachelor of Science in Financial Management from Clemson
8 University in 1994. Prior to my employment at ORS, I held a variety of positions in finance,
9 accounting, auditing and management. I joined ORS in 2007 as an Auditor and assumed
10 my current position in November 2019. Since joining ORS I have gained extensive
11 knowledge and experience in the areas of annual fuel reviews, general rate cases, solar
12 leasing, annual energy efficiency/demand-side management (“EE/DSM”) programs, and
13 other distributed energy resource (“DER”) programs such as net energy metering
14 (“NEM”), as well as their associated cost recovery mechanisms.

15 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE PUBLIC SERVICE**
16 **COMMISSION OF SOUTH CAROLINA (“COMMISSION”)?**

17 A. Yes. I have previously testified on multiple occasions before the Commission.

Q. DID YOU PREVIOUSLY FILE DIRECT TESTIMONY IN THIS PROCEEDING?

A. No, I did not.

Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

A. The purpose of my Surrebuttal Testimony is to address the Rebuttal Testimonies filed by Duke Energy Carolinas, LLC's ("DEC") and Duke Energy Progress, LLC's ("DEP" and together with DEC, "Duke" or the "Companies") Witnesses Leigh Ford and Timothy J. Duff.

Q. WITNESS FORD DISCUSSES HER EXPERIENCE WITH DER PROGRAMS UNDER ACT 236. DOES S.C. CODE ANN. § 58-39-120 DEFINE DER?

A. Yes. S.C. Code Ann. § 58-39-120 (C) defines DER as :

"Distributed energy resource" (DER) means demand- and supply-side resources that can be deployed throughout the system of an electrical utility to meet the energy and reliability needs of the customers served by that system, including, but not limited to, renewable energy facilities, managed loads (including electric vehicle charging), energy storage, and other measures necessary to incorporate renewable generation resources, including load management and ancillary services such as reserves, voltage control and reactive power and black start capabilities."

While Witness Ford discusses her experience with DER Programs when she worked for ORS, she ignores that DER programs may include EE, energy storage, demand response, electric vehicles, grid-interactive efficient buildings, combined heat and power, and **renewable energy** such as Solar photovoltaic ("PV").¹ It is important to note that Solar PV and EE can be classified as DER; however, my research found no state jurisdiction support for classifying Solar PV as an EE measure as the Companies proposed Programs

¹ <https://www.aceee.org/topic/distributed-energy-resources> and NARUC Manual on Distributed Energy Rate Design and Compensation <https://pubs.naruc.org/pub/19FDF48B-AA57-5160-DBA1-BE2E9C2F7EA0>

1 promote. However, ORS did find that the American Council for an Energy-Efficient
2 Economy (“ACEE”), whose mission includes advancing EE policies and technologies,
3 takes the position that Solar and EE “... should work together as an integrated solution to
4 create cleaner and cheaper energy.”² Thus, relevant statutory provisions and entities in the
5 solar and EE sector both reflect that Solar PV is separate and apart from EE.

6 **Q. DO YOU AGREE WITH COMPANY WITNESS FORD’S ASSERTION THAT ORS**
7 **WITNESS MORGAN DOES NOT RECOGNIZE THE DIFFERENCE BETWEEN**
8 **NEM LOST REVENUE AND EE NET LOST REVENUE (FORD REBUTTAL, PP.**
9 **6-7)?**

10 A. No. Witness Morgan is an experienced Senior Engineer with impeccable
11 credentials and he has provided his curricula vita attached to his Surrebuttal Testimony as
12 Surrebuttal Exhibit OOM-1. I have personally worked with and trained Witness Morgan
13 for approximately two (2) years in the areas of NEM DER and EE/DSM programs. I have
14 the utmost confidence in his knowledge and abilities to perform in his role at ORS.
15 Contrary to Witness Ford’s statements, Witness Morgan’s testimony is accurate.

16 As Witness Morgan contends, the fact remains that any differences in the
17 calculations and cost recovery mechanisms for lost revenues and net lost revenues are not
18 the relevant issues that concern ORS with the proposed Smart Saver Solar as EE Programs
19 (“Programs”), nor should they concern this Commission. Lost revenues are lost revenues
20 no matter what form they may take, and Act 62 expressly prohibits the recovery of lost
21 revenues associated with customer-generators who apply for customer-generator programs

² <https://www.aceee.org/blog/2016/09/solar-and-energy-efficiency-need-work>

on or after June 1, 2021, which is what the Companies' proposed Programs are intended to do.

Q. PLEASE COMMENT ON WITNESS DUFF'S STATEMENT REGARDING ORS'S DECISION TO EMPLOY MR. HORII AS ITS EXPERT WITNESS IN THIS CASE (REBUTTAL, P. 8).

A. Witness Duff in his Rebuttal Testimony makes the unsubstantiated suggestion that Witness Horii is not experienced with EE/DSM proceedings. As discussed further in his Surrebuttal Testimony, however, Witness Horii possesses significant relevant experience and is fully aware of the framework and history of the Companies' EE/DSM Mechanisms, Solar Choice Metering tariffs, and other state jurisdictional programs to represent ORS as an expert in this case.

I also believe it is important to state to the Commission and the other parties that when ORS selects an expert witness to assist with the evaluation and preparation for any case before this Commission, it looks for an expert with industry experience and background relevant to the specific case. ORS does not necessarily use the same expert in every case that presents similar issues. Instead, ORS may choose to select a different expert to obtain objective and impartial viewpoints.

Q. PLEASE SUMMARIZE ORS'S CONCERNS WITH THE PROGRAMS PROPOSED BY THE COMPANIES.

A. The Companies' proposed Solar PV Programs are not EE, recovery of lost revenues associated with customer-generators who apply for customer-generator programs on or after June 1, 2021 are prohibited, and no additional incentives are necessary or appropriate to continue the growth of renewable customer generation in South Carolina. Unfairly

1 raising electricity rates for non-solar customers in order to subsidize the Companies'
2 proposed Programs and Solar PV customer-generators is contradictory to that which was
3 purportedly accomplished with the Companies' Solar Choice Metering tariffs just recently
4 approved by the Commission. That is, sustainable growth of customer-sited renewable
5 generation that equitably shares the costs and benefits among all customers, supports
6 efficient energy use, and promotes equity and affordability already exists without the need
7 for the Companies' proposed Programs.

8 **Q. WILL YOU UPDATE YOUR SURREBUTTAL TESTIMONY BASED ON**
9 **INFORMATION THAT BECOMES AVAILABLE?**

10 A. Yes. ORS fully reserves the right to revise its recommendations via supplemental
11 testimony should new information not previously provided by the Company, or other
12 sources, becomes available.

13 **Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

14 A. Yes.